

REMARKS

Claims 1-18 are now pending in the application. A minor typographical error has been corrected in the specification. Claims 1-16 stand rejected under the judicially-created doctrine of double patenting, in view of U.S. Patent 5,474,759 to Fassberg et al. It was stated in the Office Action that the patent fully discloses the applicants' claimed subject matter, and that the application and patent are claiming common subject matter.

The applicants respectfully submit that their claims are neither anticipated nor rendered obvious by the applied patent. In analyzing the claims, it should be kept in mind that the invention pertains to stable suspension formulations of mometasone furoate in a liquid propellant which is 1,1,1,2,3,3,3-Heptafluoropropane. That there is no anticipation can easily be seen by the lack of any teaching in the patent concerning the applicants' claim requirements for about 1 to about 10 weight percent ethanol to be present in a formulation, and for the mometasone furoate concentration to be at least about 1 percent of the ethanol concentration. Since there is no disclosure, it is readily apparent that there could have been no claim properly presented in the patent for this subject matter.

A lack of any possibility of obviousness can also readily be seen, since the formulation stability problems (discussed at page 2, lines 11-33 of the disclosure) overcome by the applicants' invention were not even recognized in the applied art. The statement in the Office Action to the effect that "no criticality of the concentrations of the ingredients has been established" is unquestionably erroneous, as it totally ignores the results of the experiments of the applicants' examples. Those experiments demonstrate that too little ethanol in the formulation causes erratic drug delivery and that a ratio of mometasone furoate to ethanol which is too low causes crystal growth instability; either condition adversely affects predictability of the amount of drug emitted from the metering valve of a pressurized aerosol canister. Please review the applicants' disclosure at page 5, line 28 through page 6, line 24 for an insight into the formulation considerations, none of which were addressed in any manner by the applied patent.

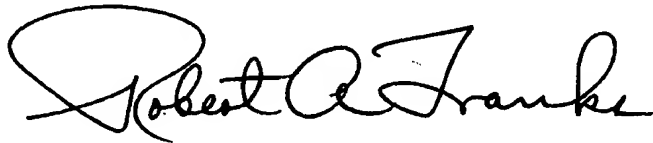


The rejection was improper and should be withdrawn, upon reconsideration.

To further facilitate the examination of this application, an information disclosure statement accompanies this paper; the statement comprises a Form PTO-1449 listing six documents, and copies of each of the listed documents. Please disregard any markings, annotations, underlining, etc. appearing on a document, as this may have been done for purposes totally unrelated to the present application. The applicants request that a copy of the form be returned with the next communication, as an acknowledgement of document consideration.

It appears that the application is in proper condition for allowance. However, should any minor issues remain to be resolved for disposition of this application, kindly contact the undersigned to arrange for a telephonic or personal interview.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert A. Franks". The signature is fluid and cursive, with the first name "Robert" being more prominent and the last name "Franks" following in a similar style.

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